

1 HB248
2 189198-4
3 By Representatives South, Blackshear, Tuggle, Collins,
4 Treadaway, Faulkner, Standridge, Wadsworth, Rowe, Fridy,
5 Harbison, Moore (B), Ellis, Hill and Daniels
6 RFD: Financial Services
7 First Read: 18-JAN-18

1 tax incentive to save funds for a down payment and closing
2 costs for the purchase of a first home in Alabama.

3 Section 3. Definitions. As used in this act, the
4 following terms shall have the following meanings:

5 (1) ACCOUNT HOLDER. A first-time and second chance
6 home buyer who establishes, individually or jointly with
7 another first-time and second chance home buyer, a first-time
8 and second chance home buyer savings account.

9 (2) ALLOWABLE CLOSING COSTS. A disbursement listed
10 on a settlement statement for the purchase of a single-family
11 residence in Alabama by a first-time and second chance home
12 buyer.

13 (3) DEPARTMENT. Alabama Department of Revenue.

14 (4) ELIGIBLE COSTS. The down payment and allowable
15 closing costs for the purchase of a single-family residence in
16 Alabama by a first-time and second chance home buyer.

17 Eligible costs do not include any costs incurred prior to the
18 establishment of a first-time and second chance home buyer
19 savings account.

20 ~~(5) FINANCIAL INSTITUTION. Any bank, trust company,~~
21 ~~savings institution, industrial loan association, consumer~~
22 ~~finance company, credit union, benefit association, insurance~~
23 ~~company, safe deposit company, money market mutual fund, or~~
24 ~~similar entity authorized to do business in Alabama.~~

25 (5) FINANCIAL INSTITUTION. Any bank, savings
26 institution, industrial loan association, credit union, or

1 other similar entity authorized to do business and accept
2 deposits in Alabama.

3 (6) FIRST-TIME AND SECOND CHANCE HOME BUYER. An
4 individual who resides in Alabama and has not owned or
5 purchased, either individually or jointly, a single-family
6 residence during a period of ~~three~~ five years prior to the
7 date of the purchase of a single-family residence.

8 (7) FIRST-TIME HOME BUYER SAVINGS ACCOUNT or
9 ACCOUNT. An account with a financial institution created for
10 the purpose of payment or reimbursement of eligible costs for
11 the purchase of a single-family residence in Alabama by a
12 first-time and second chance home buyer and designated by the
13 financial institution upon its creation as a first-time and
14 second chance home buyer savings account.

15 (8) SETTLEMENT STATEMENT. The statement of receipts
16 and disbursements for a transaction related to real estate,
17 including a statement prescribed under the Real Estate
18 Settlement Procedures Act of 1974, 12 U.S.C. 2601 et seq., as
19 amended, and regulations thereunder.

20 (9) SINGLE-FAMILY RESIDENCE. A single-family
21 residence owned and occupied by a first-time and second chance
22 home buyer as the first-time and second chance home buyer's
23 principal residence, which may also include a manufactured
24 home, trailer, mobile home, condominium unit, or cooperative.

25 Section 4. Establishment and Use of First-time and
26 second chance Home Buyer Savings Account.

1 (a) Beginning January 1, 2019, a first-time and
2 second chance home buyer may open an account with a financial
3 institution designated in its entirety by the financial
4 institution as a first-time and second chance home buyer
5 savings account.

6 (b) Funds from a first-time and second chance home
7 buyer savings account may be used only to pay a first-time and
8 second chance home buyer's eligible costs for the purchase of
9 a single-family residence in Alabama.

10 (c) A first-time and second chance home buyer may
11 jointly own a first-time and second chance home buyer savings
12 account with another first-time and second chance home buyer
13 if the joint account holders file a joint income tax return.

14 (d) Only cash and marketable securities may be
15 contributed to a first-time and second chance home buyer
16 savings account. Subject to the limitations of Section 7,
17 persons other than the account holder may contribute funds to
18 a first-time and second chance home buyer savings account.
19 There is no limitation on the amount of contributions that may
20 be made to or retained in a first-time and second chance home
21 buyer savings account.

22 Section 5. Account Holder Responsibilities.

23 The account holder shall do all of the following:

24 (1) Not use funds held in a first-time and second
25 chance home buyer savings account to pay expenses of
26 administering the account, except that a service or other

1 account fee may be deducted from the account by the financial
2 institution in which the account is held.

3 (2) Submit the following to the Department of
4 Revenue with the account holder's Alabama income tax return:

5 a. Detailed information, in a form prescribed by the
6 Department of Revenue, regarding the first-time and second
7 chance home buyer savings account, including a list of
8 transactions for the account during the tax year.

9 b. Form 1099 issued by the financial institution for
10 the account.

11 (3) Submit to the department, upon a withdrawal of
12 funds from a first-time and second chance home buyer savings
13 account, a detailed account of the eligible costs toward which
14 the account funds were applied and a statement of the amount
15 of funds remaining in the account, if any. If upon withdrawal
16 of funds from the first-time and second chance home buyer
17 savings account, the account holder fails to provide the
18 department with the detailed account of the eligible costs
19 towards which the account funds were applied, the entire
20 account's funds, including the interest and other income on
21 principal, shall be subject to the penalties listed under
22 Section 8.

23 Section 6. Responsibilities of financial
24 institutions.

25 (a) A financial institution shall be required to do
26 the following:

1 (1) Create a new account for the first-time and
2 second chance home buyer and designate the account as a
3 "first-time and second chance home buyer's savings account" on
4 records and transactional statements ~~related to the account.~~
5 ~~Only the funds deposited into this account shall be eligible~~
6 ~~for the first-time and second chance home buyer savings~~
7 ~~account deduction under this act.~~ related to the account.

8 (2) Provide the account holder with a detailed
9 account statement relating to the first-time and second chance
10 home buyer's savings account on a yearly basis.

11 (b) A financial institution shall not be required to
12 do any of the following:

13 (1) Track the use of money withdrawn from a
14 first-time and second chance home buyer savings account.

15 (2) Allocate funds in a first-time and second chance
16 home buyer savings account between joint account holders.

17 (3) Report any information not otherwise required by
18 law to the Department of Revenue or any other governmental
19 agency.

20 (c) A financial institution is not responsible or
21 liable for the following:

22 (1) Determining or ensuring that an account
23 satisfies the requirements to be a first-time and second
24 chance home buyer savings account.

25 (2) Determining or ensuring that funds in a
26 first-time and second chance home buyer savings account are
27 used for eligible costs.

1 (3) Reporting or remitting taxes or penalties
2 related to the use of a first-time and second chance home
3 buyer savings account.

4 (c) Upon being furnished proof of the death of the
5 account holder and any other information ~~required by the~~
6 related to the death required by the financial institution or
7 contract governing the first-time and second chance home buyer
8 savings account, a financial institution shall distribute the
9 principal and accumulated interest or other income in the
10 account in accordance with the terms of the contract governing
11 the account, or as otherwise required by law.

12 Section 7. Deduction of Contributions, Exclusion of
13 Earnings, and Limitations.

14 (a) Except as otherwise provided in this act and
15 subject to the limitations under this section, a first-time
16 and second chance home buyer savings account holder shall be
17 entitled to a state tax deduction, subject to the limitations
18 of this section, not to exceed six thousand dollars (\$6,000)
19 for an account holder who files an individual tax return or
20 twelve thousand dollars (\$12,000) for joint account holders
21 who file a joint tax return, for contributions made by the
22 account holder to a first-time and second chance home buyer
23 savings account during the tax year in which the deduction is
24 claimed.

25 (b) Except as otherwise provided in this act and
26 subject to the limitations under this section, earnings from
27 the first-time and second chance home buyer savings account,

1 including interest and other income on the principal, shall be
2 excluded from taxable income of an account holder for Alabama
3 income tax purposes during the tax year.

4 (c) An account holder may claim the deduction and
5 exclusion under this section as follows:

6 (1) For a period not to exceed five years.

7 (2) For an aggregate total amount of principal and
8 earnings not to exceed thirty thousand dollars (\$30,000) for
9 individual accounts and sixty thousand dollars for joint
10 accounts during the five-year period.

11 (3) Only if the principal and earnings of the
12 account remain in the account until a withdrawal is made for
13 eligible costs related to the purchase of a single-family
14 residence by a first-time and second chance home buyer.

15 (d) A person other than the account holder who
16 deposits funds in a first-time and second chance home buyer
17 savings account shall not be entitled to the deduction and
18 exclusion provided under this act.

19 (e) Any funds in a first-time and second chance home
20 buyer savings account not expended on eligible costs by
21 December 31 of the last year of the five-year period beginning
22 with January 1 of the tax year in which a deduction was first
23 claimed under subsection (a) shall thereafter be included in
24 the account holder's taxable income.

25 (f) The deduction and exclusion from taxable income
26 provided by this act shall apply to any alternative basis for
27 calculating taxable income for Alabama income tax purposes.

1 (g) The funds in the first-time and second chance
2 home buyer savings account shall not be used to purchase a
3 single-family residence outside of this state.

4 Section 8. Penalty for Withdrawal for Purpose Other
5 Than Eligible Costs. Except as otherwise provided in this
6 section, if the account holder withdraws any funds from a
7 first-time and second chance home buyer savings account for a
8 purpose other than eligible costs for the purchase of a
9 single-family residence in this state, the following shall
10 apply:

11 (1) The entire balance of the fund, including
12 interest and other income on principal, shall be included in
13 the account holder's taxable income for the tax year in which
14 the withdrawal was made.

15 (2) The account holder shall pay a penalty to the
16 Department of Revenue equal to 10 percent of the amount
17 withdrawn. The penalty shall not apply to funds withdrawn from
18 an account which were:

19 a. Withdrawn by reason of the account holder's death
20 or disability or due to employment after the account holder
21 has exhausted his or her applicable unemployment compensation
22 benefits.

23 b. A disbursement of assets of the account pursuant
24 to a filing for protection under the United States Bankruptcy
25 Code, 11 U.S.C. § 101 et seq.

26 (3) Subdivisions (1) and (2) do not apply to funds
27 withdrawn or distributed from a first-time and second chance

1 home buyer savings account that within sixty days of their
2 withdrawal or distribution are deposited in full into another
3 first-time and second chance home buyer savings account. This
4 subdivision shall apply both to transfers between any
5 qualifying first-time and second chance home buyer savings
6 accounts whether such transfers are to or from qualifying
7 individual or joint accounts. The timely transfer of funds
8 from a first-time and second chance home buyer savings account
9 to another first-time and second chance home buyer savings
10 account in accordance with this subdivision shall not alter
11 the time limitations set forth in subsection (e) of Section 7.

12 Section 9. Department of Revenue; Forms. The
13 Department of Revenue shall adopt forms for the following:

14 (1) The designation of an account with a financial
15 institution to serve as a first-time and second chance home
16 buyer savings account.

17 (2) An account holder to annually submit to the
18 Department of Revenue detailed information regarding the
19 first-time and second chance home buyer savings account,
20 including, but not limited to, a list of transactions for the
21 account during the tax year and identifying any supporting
22 documentation required to be maintained by the account holder.

23 Section 10. The department shall report to the ~~Legal~~
24 Fiscal Division of the Legislative Services Agency on an
25 annual basis the total annual number of deductions claimed and
26 total amount of deposits deducted pursuant to this act, and
27 the number of taxpayers who claimed a first-time and second

1 chance home buyer deduction that did not expend the funds
2 pursuant to subsection (e) of Section 7, or were subjected to
3 the penalty provisions of Section 8.

4 Section 11. This act shall become effective
5 immediately upon its passage and approval by the Governor, or
6 its otherwise becoming law.

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House of Representatives

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ferred to the House of Representa-
tives committee on Financial Ser-
vices..... 18-JAN-18

Read for the second time and placed
on the calendar 1 amendment 01-FEB-18

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Yeas 95, Nays 0, Abstains 3

Jeff Woodard
Clerk